

Ex. 3-Motion to Compel Subpoena

<u>DATE</u>	<u>NARRATIVE</u>	<u>TIME-KEEPER</u>	<u>HOURS</u>	<u>RATE</u>	<u>VALUE</u>
9/6/2022	Conduct legal research regarding whether a public adjuster who has not received an assignment of claim constitutes a party to the lawsuit.	KAH	3.2	\$ 255.00	\$ 816.00
9/13/2022	Lengthy telephone conference with opposing counsel re P&G Construction's belatedly produced assignment of claim, options to address same and affect on settlement	BCN	0.8	\$ 350.00	\$ 280.00
9/13/2022	Review of P&G Construction's assignment of claim and creation date of same	BCN	0.3	\$ 350.00	\$ 105.00
9/13/2022	Conduct legal research regarding permissibility of an assignment of claim from an insured to public adjuster, prohibition against a public adjuster recovering as public adjuster and from property repairs, and validity of late disclosed assignment of claim.	KAH	2.0	\$ 255.00	\$ 510.00
9/13/2022	Investigation of client's claims file (638 pages) re whether P&G Construction's assignment of claim was ever produced to client	BCN	0.7	\$ 350.00	\$ 245.00
9/13/2022	Email to client re P&G Construction's belatedly produced assignment of claim and options to address same	BCN	0.5	\$ 350.00	\$ 175.00
9/28/2022	Email from P&G Construction re: status of dispute	BCN	0.2	\$ 350.00	\$ 70.00
9/30/2022	Review service options upon Russ Perkins for service of process and to avoid William Griffin	BCN	0.2	\$ 350.00	\$ 70.00
10/3/2022	Email with P&G Construction re: need for dates for taking of deposition	BCN	0.2	\$ 350.00	\$ 70.00
10/3/2022	Draft Subpoena to P&G Construction Inc.	KAH	0.2	\$ 255.00	\$ 51.00
10/3/2022	Draft Subpoena to P&G Construction Consultants, LLC	KAH	0.2	\$ 255.00	\$ 51.00
10/4/2022	Revisions to subpoena to P&G Consultants to address additional categories of documents and electronic information related to alleged assignment of claim	BCN	0.3	\$ 350.00	\$ 105.00
10/4/2022	Email from P&G Consultants re: information sought pursuant to subpoena	BCN	0.1	\$ 350.00	\$ 35.00
10/4/2022	Review email correspondence from Plaintiff and P&G Consultants to determine likely topics regarding which to seek discovery from P&G Consultants	BCN	0.4	\$ 350.00	\$ 140.00
10/13/2022	2 telephone conferences R. Watson of P&G Construction Consultants, Inc. re subpoena and response that she has no documents responsive to the request	BCN	0.3	\$ 350.00	\$ 105.00
11/4/2022	Review options to compel P&G Construction to comply with issued subpoena	BCN	0.2	\$ 350.00	\$ 70.00
11/7/2022	Attention to issues related to P&G's failure to respond to timely and fully served subpoena	BCN	0.2	\$ 350.00	\$ 70.00
11/7/2022	Revisions to letter to P&G Construction re: failure to respond to timely and fully served subpoena in effort to confer prior to filing of Motion to Compel	BCN	0.2	\$ 350.00	\$ 70.00
11/7/2022	Draft letter to P&G Construction Consultants re overdue response to subpoena.	KAH	0.4	\$ 255.00	\$ 102.00
11/13/2022	Draft Memorandum in Support of Motion to Compel.	KAH	2.5	\$ 255.00	\$ 637.50
11/13/2022	Draft Motion to Compel Subpoena Response.	KAH	0.6	\$ 255.00	\$ 153.00
11/13/2022	Draft Proposed Order Granting Motion to Compel Subpoena Response.	KAH	0.2	\$ 255.00	\$ 51.00
11/14/2022	Continue drafting Motion to Compel Subpoena Responses.	KAH	0.2	\$ 255.00	\$ 51.00
11/14/2022	Continue drafting Memorandum in Support of Motion to Compel subpoena responses.	KAH	0.4	\$ 255.00	\$ 102.00
11/16/2022	Email from T. Gammill re: filing for Motion to Compel, conferral re same	BCN	0.1	\$ 350.00	\$ 35.00
11/16/2022	Draft lengthy email to opposing counsel re duty to confer in good faith prior to filing Motion to Compel Subpoena Responses.	KAH	0.4	\$ 255.00	\$ 102.00
11/18/2022	Final drafting of, revisions to Motion to Compel production of records re: subpoena and for sanctions	BCN	0.6	\$ 350.00	\$ 210.00
11/18/2022	Final drafting of, revisions Memorandum of Law Motion to Compel production of records re: subpoena and for sanctions, including addition of section re: Rule 45(g)	BCN	1.9	\$ 350.00	\$ 665.00
11/18/2022	Final drafting of, revisions of Order granting Motion to Compel production of records re: subpoena and for sanctions against P&G	BCN	0.2	\$ 350.00	\$ 70.00

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11/21/2022	Draft lengthy email to clients re update of proceedings and Motion to Compel Subpoena Responses	KAH	0.5	\$ 255.00	\$ 127.50
11/22/2022	Email with client and client re: filing of Motion to Compel against third-party P&G Consultants	BCN	0.1	\$ 350.00	\$ 35.00
12/2/2022	Review P&G Consultant's Response to Motion to Compel Subpoena Response	BCN	0.2	\$ 350.00	\$ 70.00
12/2/2022	Substantial research re: Plaintiff's unsupported position re: Response to Motion to Compel and options to address same	BCN	1.4	\$ 350.00	\$ 490.00
12/2/2022	Email with client re: P&G's response to Motion to Compel Subpoena Response and continued refusal to cooperate	BCN	0.3	\$ 350.00	\$ 105.00
12/2/2022	Draft Reply to Response to Motion to Compel and for Sanctions.	KAH	3.6	\$ 255.00	\$ 918.00
12/4/2022	Draft Reply to Response in Opposition to Motion to Compel Subpoena Responses.	KAH	1.3	\$ 255.00	\$ 331.50
12/5/2022	Research into Tennessee law regarding P&G's contention that personal service is required upon registered agent, even where process server served at office of registered agent	BCN	0.8	\$ 350.00	\$ 280.00
12/5/2022	Continue drafting Reply to Response in Opposition to Motion to Compel Subpoena Responses.	KAH	2.9	\$ 255.00	\$ 739.50
12/5/2022	Draft Motion for Leave to File Reply Memorandum.	KAH	0.7	\$ 255.00	\$ 178.50
12/5/2022	Email from Plaintiff's counsel re Reply to Response to Motion to Compel.	KAH	0.1	\$ 255.00	\$ 25.50
12/5/2022	Draft required email to opposing counsel re consent for filing Reply to Response to Motion to Compel.	KAH	0.3	\$ 255.00	\$ 76.50
12/6/2022	Review of efforts of process server to obtain signature of William Griffin, as opposed to Greg Heath (who signed receipt)	BCN	0.3	\$ 350.00	\$ 105.00
12/6/2022	Extensive revisions to draft Reply in Support of Motion to Compel Subpoena Responses and for Sanctions, including substantial revisions to service of process arguments	BCN	1.7	\$ 350.00	\$ 595.00
12/8/2022	Final revisions to Reply Brief due to belated invitation of D. Berkeley to Status Conference by Judge York's Law Clerk and expected position re: service upon Greg Heath	BCN	0.8	\$ 350.00	\$ 280.00
12/16/2022	Preparation for hearing on Motion for Sanctions including designation of all related exhibits	BCN	0.9	\$ 350.00	\$ 315.00
12/16/2022	Hearing before Judge York and opposing counsel re: representations by Plaintiff, Motion to Compel, and Motion for Sanctions	BCN	0.7	\$ 350.00	\$ 245.00
12/19/2022	Lengthy email to client re: Court's rulings on Motion to Compel, Motion to Withdraw and upcoming deadlines for Plaintiff	BCN	0.7	\$ 350.00	\$ 245.00
12/19/2022	Review of Orders entered by Judge York re: rulings on Motion to Compel, Motion to Withdraw, and Motion for Leave to file Reply Brief	BCN	0.2	\$ 350.00	\$ 70.00
12/20/2022	Telephone conference with D. Berkley re status and next steps	BCN	0.1	\$ 350.00	\$ 35.00
1/10/2023	Review of P&G response to subpoena to determine sufficiency of same	BCN	0.3	\$ 380.00	\$ 114.00
1/10/2023	Review original Assignment of Claim produced by P&G to compare with allegedly same document produced in response to subpoena	KAH	0.8	\$ 275.00	\$ 220.00
1/12/2023	Review metadata found on .pdf at issue produced by P&G Construction Consultants and additional questions presented re: same	BCN	0.4	\$ 380.00	\$ 152.00
1/12/2023	Review Assignment of Claim Agreement in response to Subpoena re metadata	KAH	0.6	\$ 275.00	\$ 165.00
1/15/2023	Verification of continued failure by P&G to provide electronically available information pursuant to subpoena	BCN	0.4	\$ 380.00	\$ 152.00
1/15/2023	Email to client re: status, P&G Construction Consultants' deficient subpoena production, and failure of Plaintiff to advise of new counsel	BCN	0.3	\$ 380.00	\$ 114.00
1/15/2023	3 emails with opposing counsel re: failure of P&G Construction Consultants' to make subpoena production in compliance with Court order	BCN	0.5	\$ 380.00	\$ 190.00
1/15/2023	Efforts to discern identity of members of P&G Construction Consultants from publicly available information in order to determine whether public appraiser has an ownership interest in P & G Construction consultants	BCN	0.8	\$ 380.00	\$ 304.00
1/18/2023	Email from D. Berkley re: request to substitute party plaintiff for P&G Construction and corresponding review of Plaintiff's original deadline for doing so	BCN	0.3	\$ 380.00	\$ 114.00

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1/18/2023	Lengthy email to client re: P&G's request to be joined to action and failure to respond to subpoena fully	BCN	0.4	\$ 380.00	\$ 152.00
1/19/2023	Review sufficiency of documents produced by P&G in responses to subpoena.	KAH	0.4	\$ 275.00	\$ 110.00
1/19/2023	Review of additional information provided by P&G Construction Consultants pursuant to demand for additional production of information	BCN	0.6	\$ 380.00	\$ 228.00
1/20/2023	Continue reviewing documents produced by P&G in response to subpoena re meta-data and native file format due to deficiency and suspected fraud	KAH	0.5	\$ 275.00	\$ 137.50
1/20/2023	Email to D. Berkley re: failure of P&G to produce meta data related to Michael Clark's alleged entry into Assignment of Claim	BCN	0.3	\$ 380.00	\$ 114.00
1/23/2023	Review meta-data missing (and produced) from P&G Construction's subpoena production, preparation of explanation re: same to demand production during the Motion for Sanctions hearing	BCN	0.5	\$ 380.00	\$ 190.00
1/30/2023	Review documents re current status of proceedings in preparation for upcoming Show Cause Hearing and Supplemental Status Conference, including Mediation Certification, Motion for Sanctions and Order to Show Cause Against Michael Clark, Motion to Compel Subpoena Responses and for Sanctions against P&G, Court Order granting our Motion to Compel in part, and Court Order Setting Show Cause Hearing.	KAH	0.5	\$ 275.00	\$ 137.50
1/30/2023	Call with client re instructions for requested relief at upcoming show cause hearing.	KAH	0.3	\$ 275.00	\$ 82.50
1/30/2023	Review recommended deadlines in Standard Track Scheduling Order for Western District of Tennessee in preparation for drafting Supplemental Scheduling Order.	KAH	0.3	\$ 275.00	\$ 82.50
1/30/2023	Revise Supplemental Scheduling Order based on Standard Track scheduling order and specific instructions from Magistrate Judge York	KAH	0.2	\$ 275.00	\$ 55.00
1/30/2023	Review current deadlines initial Scheduling Order in preparation for modifying deadlines in Supplemental Scheduling Order.	KAH	0.5	\$ 275.00	\$ 137.50
1/31/2023	Draft email to Drayton Berkley re proposed supplemental scheduling order and his need to agree to dates included therein or advise differently per Magistrate Judge York's instructions	KAH	0.2	\$ 275.00	\$ 55.00
2/1/2023	Review pending Motion for Sanctions and Order to Show Cause against Plaintiff Michael Clark in preparation for attending show cause hearing on Monday, February 6th, including status of award of attorneys' fees and remaining motions pending before Court.	KAH	0.2	\$ 275.00	\$ 55.00
2/2/2023	Email to Drayton Berkley re proposed supplemental scheduling order and efforts to locate metadata related to P&G's assignment of claim.	KAH	0.3	\$ 275.00	\$ 82.50
2/2/2023	Email from Drayton Berkley re substantive changes to proposed supplemental scheduling order.	KAH	0.1	\$ 275.00	\$ 27.50
2/3/2023	Email with M. Clark re: Order to Show Cause and proposed Scheduling Order	BCN	0.2	\$ 380.00	\$ 76.00
2/3/2023	Continue drafting proposed supplemental scheduling order.	KAH	0.2	\$ 275.00	\$ 55.00
2/3/2023	Telephone conference with D. Berkley re: Mr. Clark's belated decision to allow Mr. Berkley to serve as his counsel	BCN	0.4	\$ 380.00	\$ 152.00
2/3/2023	Review Order setting show cause hearing re whether counsel for Ohio Security can appear via telephone if Plaintiff retains counsel.	KAH	0.2	\$ 275.00	\$ 55.00
2/6/2023	Preparation for hearing with Judge York including final drafting of arguments regarding fact that P&G has failed to comply with Court Order	BCN	0.3	\$ 380.00	\$ 114.00
2/6/2023	Attendance at hearing with Judge York re: potential trial in October 2023, Mr. Clark's decision to allow D. Berkley to represent him, and arguments re: P&G's continued failures to respond to subpoena or comply with Court Order	BCN	0.5	\$ 380.00	\$ 190.00
2/6/2023	Email to client and client re: results of hearing with Judge York, including Scheduling Order, trial in October 2023, and Mr. Clark's decision to allow D. Berkley to represent him	BCN	0.2	\$ 380.00	\$ 76.00

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2/6/2023	Review known information re: ESI attached to the Assignment of Claim produced by P&G and options for P&G to produce same	BCN	0.9	\$ 380.00	\$ 342.00
2/6/2023	Draft email to Drayton Berkley re procedure for accessing native files and meta-data associated with assignment of claim agreement produced by P&G given dispute as to whether assignment of claim produced is fraudulent or altered from original document.	KAH	0.2	\$ 275.00	\$ 55.00
2/6/2023	Draft lengthy email to electronic discovery team re substantive software review to determine when assignment of claim agreement was signed and executed.	KAH	0.6	\$ 275.00	\$ 165.00
2/13/2023	Analyze options available to Liberty to pursue show cause order against P & G Construction Consultants related to failure to comply with court order	BCN	0.3	\$ 380.00	\$ 114.00
2/13/2023	Review prior communications with opposing counsel re: meta-data related to allegedly execution of Assignment by Plaintiff	BCN	0.2	\$ 380.00	\$ 76.00
2/13/2023	Draft email to opposing counsel re deficient production of meta-data associated with assignment of claim agreement and subpoena and relevant documents for use at Plaintiff's upcoming deposition.	KAH	0.3	\$ 275.00	\$ 82.50
2/14/2023	Email from D. Berkley re: additional efforts to locate electronically stored information and "eureka" moment regarding information sought	BCN	0.1	\$ 380.00	\$ 38.00
2/21/2023	Attendance at hearing with Judge York and opposing counsel regarding P & G Construction's failure to produce ESI pursuant to Court Order and new position at that the Assignment of Claim was ink-signed	BCN	0.5	\$ 380.00	\$ 190.00
2/21/2023	Preparation for hearing with Judge York, including designation of information related to all proof we have that the Assignment of Claim was electronically signed, and proof provided via PhotoShop re: same	BCN	0.7	\$ 380.00	\$ 266.00
2/21/2023	2 telephone conferences with T. Gammill re: opposing counsel's statements related to T. Gammill's alleged possession of original, ink-signed Assignment of Claim was in his possession	BCN	0.3	\$ 380.00	\$ 114.00
2/27/2023	2 telephone conferences with Toby Gammill re statements made by D. Berkley at hearing accusing Mr. Gammill of withholding production of original settlement and release agreement	BCN	0.2	\$ 380.00	\$ 76.00
2/28/2023	4 telephone conferences with T. Gammill re: efforts to confer regarding Plaintiff's counsel's comments concerning existence of ink-signed version of Assignment of Claim	BCN	0.4	\$ 380.00	\$ 152.00
2/28/2023	2 emails with T. Gammill re: efforts to confer re: Plaintiff's counsel's unsubstantiated comments concerning existence of ink-signed version of Assignment of Claim	BCN	0.4	\$ 380.00	\$ 152.00
3/7/2023	2 telephone conferences with opposing counsel re: required efforts to confer regarding production of ESI by P&G Construction Consultants	BCN	0.3	\$ 380.00	\$ 114.00
3/7/2023	Preparation for hearing with Judge York, including preparation of argument re: prior efforts and reasons why P&G should pay for any necessary ESI work moving forward	BCN	0.4	\$ 380.00	\$ 152.00
3/7/2023	Review differences between prior Assignments of Claim sent to us by P&G Construction, including differences in signature block, different fonts and different emblems shown	BCN	0.4	\$ 380.00	\$ 152.00
3/7/2023	Attendance at hearing with Judge York re: P&G's continued failures to meet demands of Court and subpoena, and ordering of payment of costs by P&G Construction	BCN	0.5	\$ 380.00	\$ 190.00
3/7/2023	Email to client re: results of hearing with Judge York, awarding of costs of ESI retrieval, and need to delay discovery further and upcoming issues	BCN	0.4	\$ 380.00	\$ 152.00
3/7/2023	Conduct investigation into Plaintiff's claim that assignment of claim agreement was ink signed, including by comparing two versions of assignment of claim agreement received with different signature formats and comparing with plaintiff's prior testimony	KAH	0.9	\$ 275.00	\$ 247.50
TOTAL			55.0		\$ 17,203.00